

TTAB

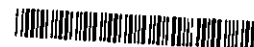
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November 25, 2003

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Box TTAB - NO FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514



11-28-2003

U.S. Patent & TMO/TM Mail Rcpt Dt #78

Dear Sir:

Re: Opposition No. 91152705;
Our File No. 7144-A

On behalf of Jeneil Biotech, Inc., I enclose a copy of the agreement between the parties to the opposition that was mistakenly not attached to the Motion for Suspension of Proceedings filed with the TTAB on November 19, 2003. Please note that this error occurred in good faith. Note that this agreement, signed by both parties, serves as grounds for the Motion. In the agreement, the Opposer agrees to suspend the opposition proceeding pending acceptance of the Opposer's "NATURSOY" trademark application (Serial No. 76/442724) (See page 3, Item 7).

Please return the postcard receipt. If you have any questions, please contact me at the number above.

Yours very truly,

A handwritten signature in black ink, appearing to be 'K. Lee' with a stylized flourish at the end.

Kent A. Lee

MW1037463KAL

Enc.

TRADEMARK CO-EXISTENCE AND CONSENT AGREEMENT

THIS AGREEMENT is by and between Jeneil Biotech, Inc., a Wisconsin corporation having its principal place of business at 400 N. Dekora Woods Blvd., Saukville, WI 53080 ("Jeneil") and Nature Soy, Inc., a Pennsylvania corporation having its principal place of business at 713 North 10th Street, Philadelphia, Pennsylvania 19123 ("Nature Soy"). (Jeneil and Nature Soy are sometimes referred to hereinafter collectively as the "Parties" and each individually as a "Party")

RECITALS

The following circumstances have given rise to this Agreement:

A. Since at least as early as June 24, 1999, Jeneil has used the mark "NATURSOY" in connection with the sale of soy products. On August 19, 2002, Jeneil filed an U.S. federal trademark application (Serial No. 76/442724) for use in connection with soy products.

B. Articles of incorporation were filed for Nature Soy, Inc. on January 11, 1999. Nature Soy sold soy products clearly displaying the corporate name "Nature Soy, Inc." at least as early as June 11, 1999.

C. On October 26, 2000, Nature Soy filed a U.S. federal intent-to-use trademark application (Serial No. 76/154423) for "NATURE'S SOY" for use in connection with said "tofu, fried soybean, soy-based food beverage used as a milk substitute, soy pudding, margarine, milk, cream, yogurt, cheese, cottage cheese, butter". On November 30, 2001, Nature Soy filed an U.S. federal intent-to-use trademark application (Serial No. 76/343143) for "NATURE'S SOY & design" for use in connection with said goods. Since at least as early as March 19, 2001, Nature Soy has used the mark "NATURE'S SOY" in connection with goods.

D. On August 14, 2002, Jeneil filed a Notice of Opposition of Nature Soy's "NATURE'S SOY" trademark application (Opposition No. 91152705). On October 11, 2002, Jeneil filed a Notice of Opposition of Nature Soy's "NATURE'S SOY & design" trademark application (Opposition No. 91155413) (the "Oppositions").

E. The Parties wish to confirm and memorialize in this Agreement their respective concurrent rights to use their respective marks, so as to avoid any disputes between themselves, and any likelihood of confusion among consumers of their services, in the future.

AGREEMENTS

In view of the foregoing, and in consideration of the mutual undertakings set forth herein and other good and valuable consideration, the Parties agree that:

1. The Parties believe that there will be no likelihood of confusion as to the source of each Party's goods since each Party offers different types of soy products that are marketed through different channels of trade.
2. The Parties also believe that there will be no likelihood of confusion as to source of goods so long as the terms of this Agreement are complied with. The Parties recognize and agree that compliance with the provisions of this Agreement will prevent conflict between their respective marks, and will preclude any likelihood that consumers will confuse the marks with one another.
3. The Parties agree to cooperate and consult with one another, in good faith, should future conditions or developments suggest to either the possibility that the Parties' respective marks might be likely to be confused with one another, all with the view of ensuring that no likelihood of confusion between the Parties' respective marks, as they are used in commerce, shall occur.
4. In the United States, Jeneil will only use the mark "NATURSOY" in connection with "soy products, namely, powdered soy-based milk substitute sold wholesale to manufacturers."
5. In the United States, Nature Soy will only use the "NATURE'S SOY" and "NATURE'S SOY & design" marks in connection with "soy and soy-based finished goods sold to retailers, distributors and food service operations namely, tofu, fried soybean, soy-based food beverage used as a milk substitute, soy pudding, margarine, milk, cream, yogurt, cheese, cottage cheese, butter".
6. Jeneil consents to Nature Soy's registration and use of "NATURE'S SOY" (Serial No. 76/154423) and "NATURE'S SOY & design" (Serial No. 76/343143) trademark. Nature Soy consents to Jeneil's registration and use of "NATURSOY" (Serial No. 76/442724). Each Party may seek additional state or federal registrations of their respective trademarks, so long as such applications do not seek registration of marks or rights in conflict with provisions of this Agreement.

7. Upon execution of this Agreement, Jeneil agrees to formally stay the Oppositions pending the acceptance of the "NATURSOY" trademark application (Serial No. 76/442724) by the U.S. Patent and Trademark Office. Within 2 weeks of receipt of acceptance of Jeneil's "NATURSOY" trademark application by the U.S. Patent and Trademark Office (the "PTO"), Jeneil agrees to formally dismiss the Oppositions. In the event that Jeneil's "NATURSOY" trademark application is not accepted by the PTO on the basis of likelihood of confusion with Nature Soy's "NATURE'S SOY" (Serial No. 76/154423) or "NATURE'S SOY & design" (Serial No. 76/343143) trademark applications, the Parties agree to cooperate in good faith to provide the PTO with the necessary evidence to demonstrate that there is no likelihood of confusion. In the event that Nature Soy's "NATURE'S SOY" application or "NATURE'S SOY & design" application is not accepted by the PTO on the basis of likelihood of confusion with Jeneil's "NATURSOY" (Serial NO. 76/442724) trademark application, the Parties agree to cooperate in good faith to provide the PTO with the necessary evidence to demonstrate that there is no likelihood of confusion.

8. The Parties agree that, so long as the obligations of this Agreement are fully complied with, they will not pursue any claim against the other relating to use of their respective trademarks, including but not limited to Opposition and Cancellation proceedings.

9. Both Parties to this Agreement may license or assign their respective rights hereunder, in whole or in part, provided that such license or assignment is consistent with the terms of this Agreement.


10. This Agreement constitutes a contract made under the laws of the State of Wisconsin, and shall be interpreted and construed in accordance with such laws.

11. This Agreement may be signed in multiple copies. Each copy shall be considered an original for all purposes.

12. Upon execution of this Agreement, as set forth in the following section, the Parties shall cooperate to the end that each Party who desires its mark to be registered or its registration to be maintained shall promptly obtain or maintain such registration in a manner not inconsistent with the provisions of this Agreement.


In consideration of the foregoing, the Parties have each caused this Agreement to be signed by their respective, duly authorized officers on the dates set forth below their respective signatures, the Agreement to be effective upon execution by all parties; the date of the Agreement is to be the latest date there set forth.

JENEIL BIOTECH, INC.

By: 
N.R. GANDHI, President.
[Name, Title]

Dated: 11/6/03

NATURE'S SOY, INC.

By: 
YATSUN WEN PRESIDENT.
[Name, Title]

Dated: 10-24-03